

REMARKS

Applicant thanks the Examiner for the interview to discuss the pending matter and related matters. For the reasons provided in the interview and in view of the foregoing amendments and the following remarks, reconsideration and allowance are requested.

New claims 31-44 are now pending with claims 31, 37 and 44 being independent. These new claims are fully supported by the application as originally filed. No new matter has been added.

For the reasons set forth in the office action at pages 2-7, claims 19, 21, 22 and 23 stand rejected under 35 USC 102 and 103 as being unpatentable over Shavit and/or Shavit in combination with Grant. These rejections and the underlying rationale are traversed.

Without conceding the propriety of this rejection, and solely to expedite allowance of this application, the claims have been cancelled and newly presented claims 31-44 are submitted as discussed in the interview. All claims now recite that transactions be made within the system between accounts maintained within the system, e.g., without resort to external financial institutions or automated clearinghouse networks (ACH). In addition, all the pending claims now recite that the transactional system is used in conjunction with a participant-to-participant online sales system.

More particularly, claim 31 recites a computer-based transactional system for facilitating payment between participant accounts maintained within the transactional system. The claimed transactional system is configured to authorize the transfer of funds between a first financial account associated with a buyer participant and a second financial account associated with a seller participant in response to the first and second participants conducting transactions and without requiring connection to an external financial institution. The transactional system, which is integrated with an electronic auction and fixed price sales system, includes a computer system in communication with the Internet and capable of executing a plurality of substantially simultaneous processes, and one or more processes executing on the computer system to perform the following:

- i. maintain an account database for tracking account information for a plurality of participants within the transactional system;

ii. require the buyer participant and the seller participant each to maintain accounts within the transactional system;

iii. monitor a balance of funds available in each account within the transactional system;

iv. deduct a payment amount from the buyer participant's account corresponding to an accepted offer made by the buyer participant to purchase one or more goods or collectibles offered for sale by the seller participant via said integrated electronic auction and fixed-price sales system; and

v. transfer the deducted payment amount to the seller participant's account within the transactional system.

The integrated electronic auction and fixed-price sales system includes a computer system in communication with the Internet and capable of executing a plurality of substantially simultaneous processes, and one or more processes executing on the computer system to perform the following:

i. provide via the Internet a participant interface for participants to select a predetermined item category from among a plurality of predetermined item categories, the category selection providing a further predetermined sub-category selection for item categorization, the item categorization corresponding to at least one or more goods and collectible categories;

ii. provide to a participant seller, via an automated seller's interface to the system, a selling mode selection between at least an ascending bid auction mode and a fixed price mode, the selling mode selection enabling the participant seller to select the selling mode format for at least one good or collectible posted by the participant seller for sale on the electronic auction and fixed-price sales system; and

iii. generating a unique identification code or number for each ascending bid auction or fixed price instance established by the participant seller in the electronic auction and fixed-price sales system; and

iv. locking a data record associated with the item offered for sale in said ascending bid auction mode or fixed-price mode to prevent the sale of the same item twice to different or the same participant buyer in the electronic auction and fixed-price sales system.

The art of record fails to disclose or suggest this combination of features.

Shavit relates to an EDI (Electronic Data Interchange) based system wherein the system resorts to the use of an external financial institution (e.g., a bank) to transfer payment between users whom are presumed have financial accounts at financial institutions external to the system. Illustrative of this approach is Shavit at Col. 8, 55- 61, which provides:

A payment service capability is provided to the user (e.g., buyer, distributor, supplier, service provider, etc.) who authorizes the system to carry its payment instructions to the user's bank. Based on the acceptance of such authorization by the bank, the user may use its remote terminal to authorize the system to transfer payment instructions through the bank ...

In contrast to Shavit, the transactional system of claim 31 does not need to (but may) resort to an external financial institution when the participants maintain accounts within the transactional system as used in conjunction with the claimed participant-to-participant online sales system. Rather, the system of claim 31 provides a way to transfer value between participants within the transactional system, thereby overcoming the formalities of existing external financial systems that can make transactions inefficient or difficult to complete. For example, transferring money to another person's bank or other financial account may require one to know the person's account number. That person may understandably be reluctant to divulge such information.

Moreover, even assuming *arguendo* that it is proper to combine Shavit with Grant, that combination still does not disclose or suggest the combination of features recited in claim 31. Grant relates to an interface between a banking system and a brokerage system. More particularly, in Grant "a customer having a dual status, that is, one having both a banking and brokerage account, can transact both brokerage and banking activities from the brokerage system 12 through the banking/brokerage computer interface system [disclosed in Grant]." Grant at column 3, lines 10-15. However, Grant fails to disclose or suggest several express features of claim 31 including, for example, one or more processes executing on a computer system to deduct a payment amount from the buyer participant's account corresponding to an accepted offer made by that the buyer participant to purchase one or more goods or collectibles offered for sale by a the seller participant seller via said integrated electronic auction and fixed- price sales system and transfer the deducted payment amount to an account maintained by the seller

participant's account seller within the transactional system who sold the at least one or more goods or collectibles via the integrated electronic auction and fixed price sale system. To the contrary, Grant's system does not contemplate or enable, among other things, being able to transfer funds from one party's account to another party's account in payment for goods. Rather, Grant's system is limited to enabling a single party to transfer funds between a banking account and a brokerage account, both of which belong to that same party.

This difference from the art of record provides the system of claim 31 with several advantages including, for example, streamlining the online sale and purchase of goods and providing security and confidence to both buyer and seller about the integrity of the transaction.

Accordingly, independent claim 31 is allowable over the art of record for at least this reason. Independent claims 37 and 44 recite similar features as claim 31 and thus are allowable at least the same reasons as claim 31. The remaining claims each depends directly or indirectly from one of the independent claims discussed above. Accordingly, these dependent claims are allowable for the reasons that their respective independent claims are allowable and for reciting allowable subject matter in their own right. More particularly, the express claim limitations of the pending claims cannot simply be ignored or overlooked in examining the claims. Each of these express claim limitations, none of which are taught or suggested by Shavit or Grant, serves as a separate and independent reason for allowing the associated claim. Accordingly, independent consideration and allowance of the dependent claims are requested.

The foregoing comments made with respect to positions taken by the Examiner are not to be construed as acquiescence by the applicant with other positions of the Examiner that have not been explicitly contested. Accordingly, applicant's arguments for patentability of a claim should not be construed as implying that there are not other good reasons for patentability of that claim or other claims.

Applicant : Thomas G. Woolston
Serial No. : 09/557,617
Filed : April 25, 2000
Page : 13 of 13


Attorney's Docket No.: 13466-002011

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: _____

5/17/04



John C. Phillips
Reg. No. 35,322

PTO Customer No. 20985
Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5070
Facsimile: (858) 678-5099